

REMARKS

The final Office Action dated August 11, 2005 has been carefully considered. In the Office Action, remaining claims 1-13 were rejected. By way of this amendment, claims 1, 6, and 13 have been amended (without prejudice reserving the right to prosecute separate divisional or continuation applications). Applicant respectfully requests reconsideration and re-examination in view of the foregoing amendments and the following remarks.

In the final Office Action, the patent Examiner continued to assert the claims were either obvious over Gebka alone or obvious over Gebka in view of secondary references. For example as it pertains to independent claim 1, the Examiner has taken the position that the claimed invention is obvious over Gebka because it only involves a mere reversal of the essential working parts of a device and therefore involves only routine skill in the art. In support of this position, an old 1931 case has been cited. It is noted that there is no recitation of the motivation or teaching from the prior art to make this asserted modification to the Gebka reference, which the Examiner asserts can be simply found by virtue of the case law precedent as stated expressly in the Office Action. In this regard, Applicant brings to the attention of the patent Examiner more recent case precedent of *Ex parte Chicago Rawhide Manufacturing Company*, 223 USPQ 351, 353 (Bd. Pt. Ap. Int. 1984), which provides:

"The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the work in the art, without the benefit of the appellants specification to make the necessary changes in the reference device."

(Emphasis added). See also MPEP § 2143 regarding the basic requirements for a *prima facia* case of obviousness.

Additionally, claim 1 clearly distinguishes the cited Gebka reference. Gebka only teaches an extrusion of plastic (polyvinyl chloride, a.k.a. PVC) ribs on a co-extrusion of a label holder. Therefore, even if the asserted rib were to be placed on the back of the label to make it friction coated, it would not fall into the category of a weak adhesive as is claimed. A Markush Group has been sent up also in claim 1 to set forth all of the foreseeable alternatives which can be used in the present invention as applied to a retail merchandising system. Support for this amendment is found at paragraph 22 of the present application on

In re Appln. Of: Thomas E. Valiulis
Application No.: 10/689,283

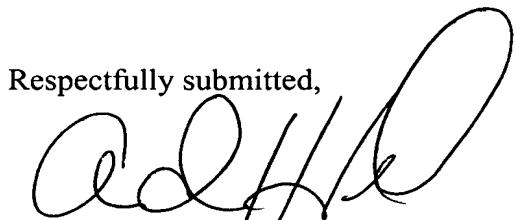
page 4. Simply put, a polyvinyl chloride plastic is by no means an adhesive within the context of the present invention as claimed as indicated by the Markush Group. In fact, polyvinyl chloride plastic does not seem to be an adhesive under any of the typical meanings or definitions associated with the word "adhesive," and certainly is not equivalent to any of the adhesives listed in the Markush Group.

Based on the foregoing, Applicant respectfully requests the Examiner to withdraw the rejections that have been advanced, as the Gebka reference cannot be seen to be applicable to the claims presented in view of the foregoing amendments. Since the secondary references noted in the Office Action as applied to certain dependent claims do not fix any of the deficiencies noted to Gebka as indicated above, removal of those rejections is listed as well.

CONCLUSION

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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